

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION

OCT 16 2013
JULIA C. DUDLEY, CLERK
BY: DEPUTY CLERK

HONGAN LAI,

Plaintiff,

v.

DEPT. OF JUSTICE, et al.,

Defendants.

Civil Action No. 5:13cv00033

By: Michael F. Urbanski
United States District Judge

ORDER

This matter was referred to the Honorable B. Waugh Crigler, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b)(1)(B), for proposed findings of fact and a recommended disposition. The magistrate judge filed a report and recommendation on September 20, 2013, recommending that the pending claims against defendants the Department of Justice, the Bureau of Alcohol Tobacco, Firearms, and Explosives ("ATF"), ATF Agent "Eric," ATF Agent Chris Baker, the United States Marshal Service, and Thomas Fischer,¹ be dismissed for lack of prosecution pursuant to Fed. R. Civ. P 41(b) and that notice be sent to the plaintiff affording him a date by which to show good cause why the case should not be dismissed for lack of service upon "Sam," the sole remaining defendant.

No objections to the report and recommendation have been filed and the court is of the opinion that the report and recommendation should be adopted in its entirety. It is accordingly **ORDERED** and **ADJUDGED** that the report and recommendation (Dkt. No. 22) is **ADOPTED in its entirety**, and that plaintiff's claims against defendants Department of Justice, the ATF, ATF Agent "Eric," ATF Agent Chris Baker, the United States Marshal Service, and Thomas

¹ As noted in the report and recommendation, the plaintiff misspelled the name of defendant Fischer as "Fisher."

Fischer are **DISMISSED** without prejudice pursuant to Fed. R. Civ. P. 41(b), and these claims are **STRICKEN** from the active docket of the court.

The Clerk issued notice to the plaintiff of insufficient service of process upon defendant “Sam” on September 20, 2013 (Dkt. No. 32), the same day the report and recommendation was issued. Plaintiff was given fifteen (15) days to notify the Clerk that service had been accomplished and instructed that otherwise defendant “Sam” would be dismissed from the suit without prejudice pursuant to Fed R. Civ. P. 4(m). Plaintiff has failed to respond within the allotted time period. As such, pursuant to the adopted report and recommendation of the magistrate judge and the notice issued by the Clerk, it is hereby **ORDERED** that the remaining pending claim against defendant “Sam” is **DISMISSED** without prejudice pursuant to Fed R. Civ. P. 4(m). This matter is accordingly **STRICKEN** from the active docket of the court.

The Clerk is directed to send a certified copy of this Order to plaintiff and to counsel of record.

Entered: 10-15-13
/s/ Michael F. Urbanski

Michael F. Urbanski
United States District Judge